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Assistant Attorney General

Attorney General

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General Frank D. Merrill, Commissioner
Department of Public Works and Highways

SEP 22 1998

CONCORD, N.H.

Dear General Merrill:

The recent legislative session has made clear the intention of the Legislature that the State be bound by (a) the damage assessment of the layout commission if approved by Governor and Council; (b) the Governor and Council's assessment if it differs from that of the layout commission; or (c) the assessment determination of jury or court without jury upon agreement of the parties.

This leaves no alternative for settlement for any other figure by this office and your department once the case is in court except with the approval of the Governor and Council. Accordingly, it is going to be necessary to prepare all pending highway matters upon the assumption that they will be tried. This will necessitate preparation of plans and plan enlargement; securing of copies of deeds and other necessary documents; obtaining of services of competent real estate experts to testify at the trial; and taking in the course of condemnation and construction photographs adequate to correctly portray physical aspects of the property as an aid to the jury.

Mr. Otis and his Department have been very helpful in the past in preparing such information. However, in the interests of saving the State money, experts have not been engaged nor the State put to the expense of these plans, deeds, photographs, etc., unless it became obvious that trial was going to be necessary.

I enclose herewith a list of all pending highway appeals for your information and guidance so that the State may be adequately prepared to defend at time of trial. I would appreciate experts being engaged and necessary photographs being taken and trial-size blow-ups of plans prepared to that end.

There have recently also been instituted by Mr. Otis and me arrangements whereby this office has seen to it that your Department receives copies of the appeal filed in court and copies of the answer filed by this office.

Very truly yours,

George F. Nelson
Assistant Attorney General

GFM:RM

cc: Stanton C. Otis
Right-of-Way Engineer